

**Notice of Allowability**

Application No.

10/506,592

Applicant(s)

MORLEY, ANDREW DAVID

Examiner

Jason M. Nolan, Ph.D.

Art Unit

1626

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/17/2006.
2. ☒ The allowed claim(s) is/are 1-7 and 12-13 (now 1-9).
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date <u>3/24/2005</u> | 7. <input checked="" type="checkbox"/> Examiner's Amendment/Comment                    |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                                | 8. <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance   |
|   | 9. <input type="checkbox"/> Other _____.   |

### **DETAILED ACTION**

**Claims 1-7 and 12-13** (now 1-9) are currently pending in the instant application.

#### ***Priority***

This application is a 371 of PCT/GB03/00936, filed on March 4, 2003.

Acknowledgement is made of Applicant's claim for foreign priority via United Kingdom 0205166.2, filed on March 6, 2002.

#### ***Information Disclosure Statement***

Applicant's information disclosure statement (IDS), filed on March 24, 2005 has been considered. Please refer to Applicant's copies of the 1449 submitted herewith.

#### ***Examiner's Amendment***

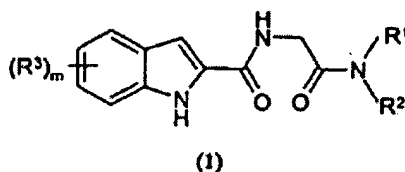
An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

The application has been amended as follows:

1. At the end of **Claim 12**, line 5, after "a compound of" and before the period, delete "claims 1" and insert - - claim 1 - -.
2. At the end of **Claim 13**, line 3, after "an effective amount of a compound" and before the period, delete "claims 1" and insert - - of claim 1 - -.

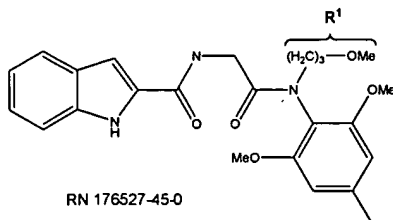
### Reasons for Allowance

The present invention relates to compounds of formula 1 in **Claim 1** (shown below), which contain an indole core substituted at C-2 with a bis-amido moiety wherein the terminal amide is substituted with  $R^1$  and  $R^2$ .  $R^2$  is either a phenyl or heteroaryl group and  $R^1$  contains a group that must be substituted on carbon with a hydroxyl group. The combination of these substitutions, and more explicitly the limitations of  $R^1$ , affords novelty to this invention and no prior art anticipates or renders this invention obvious.



The invention also includes pharmaceutical compositions of formula 1 for the treatment of type 2 diabetes, insulin resistance, syndrome X, hyperinsulinaemia, hyperglucagonaemia, cardiac ischaemia, or obesity as well as their methods for preparation.

The closest prior art is compound RN 176527-45-0 of Bras *et al.* (EP 697403, see IDS), however the  $R^1$  substituent does not contain a hydroxyl substituent and no secondary reference and motivation exist to render the compounds of the instant application obvious in light of this art.

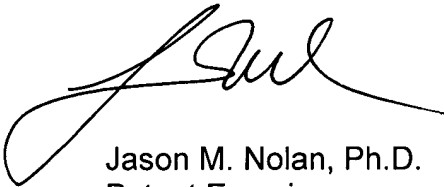


***Telephone Inquiry***

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to **Jason M. Nolan, Ph.D.** whose telephone number is **(571) 272-4356**. The Examiner can normally be reached on Monday - Friday (9:00 - 5:30PM).

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Joseph McKane can be reached on (571) 272-0699. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Jason M. Nolan, Ph.D.  
Patent Examiner  
Art Unit 1626



Joseph McKane  
Supervisory Patent Examiner  
Art Unit 1626  
Date: March 25, 2006